



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2011

Ms. Karen Thompson
City Secretary
City of Pflugerville
P.O. Box 589
Pflugerville, Texas 78691-0589

OR2011-03802

Dear Ms. Thompson:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 411750.

The City of Pflugerville (the "city") received a request for three categories of information pertaining to a specified real estate development project. You state the city has released some of the responsive information to the requestor. We note, pursuant to section 552.305 of the Government Code, the city notified NewQuest Properties ("NewQuest") of the request and of its right to submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party whose proprietary interests are involved to submit to attorney general reasons why requested information should not be released). We have received comments from NewQuest. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Both the city and NewQuest claim the sales tax information in exhibit A is protected under section 321.3022 of the Tax Code, which provides in part:

(a-1) Except as otherwise provided by this section, the comptroller on request shall provide to a municipality or other local governmental entity that has adopted a tax under [chapter 321 of the Tax Code]:

(1) information relating to the amount of tax paid to the municipality or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in the municipality or other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than \$25,000; and

(2) any other information as provided by this section.

...

(f) Information received by a municipality or other local governmental entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the municipality or other local governmental entity under this chapter, or for the purpose described in Subsection (g).

(g) Information received by a municipality or other local governmental entity under Subsection (b) may be used by the municipality or other local governmental entity to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

Tax Code § 321.3022(a-1), (f)-(g). You indicate the city has adopted a tax under chapter 321 of the Tax Code. You state the city received the sales tax information in exhibit A in a "confidential information report" from the Texas Comptroller of Public Accounts (the "comptroller"). The responsive information reflects the information we have marked in exhibit A was received from the comptroller. We have no indication the information we have marked is being sought for economic forecasting, to conduct an internal audit, or on behalf of the city to determine revenue sharing under a revenue sharing agreement. Thus, based on your representations and our review, we agree the information we have marked in exhibit A is confidential under section 321.3022(f) of the Tax Code and must be withheld under section 552.101 of the Government Code.¹

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

¹As our ruling is dispositive, we need not address NewQuest's remaining argument against disclosure.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eeg

Ref: ID# 411750

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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